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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,954	12/21/2000	Huang Lei	Q62391	6290
7590	08/23/2004		EXAMINER	
SUGHRUE, MION, ZINN MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3202			DESIRE, GREGORY M	
			ART UNIT	PAPER NUMBER
			2625	
			DATE MAILED: 08/23/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

9

Office Action Summary	Application No.	Applicant(s)
	09/740,954	LEI, HUANG
Examiner	Art Unit	
Gregory M. Desire	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 June 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,7,8,12-14,19,20,22 and 23 is/are rejected.
- 7) Claim(s) 3-6,9-11,15-18 and 21 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 December 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. This action is responsive to communication filed 6/9/04.

Response to Amendment

2. Applicant's argument in view of 35 U.S.C 103 has been fully considered but they are not persuasive and are thus maintained. See response to arguments below.

Response to Arguments

3. Applicant's argues (remarks page 3 lines 1-2) Nakamura does not cure deficient teaching of Martinez determining a timing as set forth in claim 1. This argument is not persuasive because it is the position of the examiner that Martinez does teach a means for determining timing for extracting an image (note Martinez fig. 2). Examiner interprets an image taken at a specific time as determining timing from an obtained image. Wherein the motivation to combine is to effectively process an image at real-time.

4. Applicant argues (remarks page 3 lines 16-17) Nakamura does not teach or suggest determining a timing to extract an image based on changes in gray level value. This argument is not persuasive because it is the position that although Martinez is the base reference that teaches changes in gray level, Nakamura does mention blurring or

movement of images providing a change in luminance the examiner interprets as gray level value (note Nakamura col. 3 lines 25- col. 4 lines 35)

5. Applicant argues (remarks page 4 lines 4-5) Nakamura fails to teach or suggest determining timing for extracting an image based on the judging criteria. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., judging criteria) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-2, 7-8, 12-14, 19-20 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez and Nakamura et al. (6,650,362).

Regarding claims 1 and 13 Martinez discloses,

Mean for obtaining information about changes in gray level value between said plurality of images (note fig. 3b block 314, cites obtaining pixel difference interpreted as changes in gray level value); and

Martinez is silent determining timing for extracting at least one of said plurality of images based on results from said information. However, Nakamura determines timing for extracting an image (note fig. 2 in connection with col. 3 lines 16-22 and 29-35). Images are extracted at instances in time is determined.

Therefore it would have been obvious to one having ordinary skills in the art to determine timing for extracting images in the system of Martinez as evidenced by Nakamura. Martinez obtains changes in gray level value and Nakamura in the same field of endeavor determine timing of extracted images to effectively process at real-time (note col. 1 lines 65-67).

Regarding claims 2 and 14 Martinez and Nakamura discloses,

Means for obtaining information compares said gray level value of pixels in an image of said plurality of image with similarly positioned pixels in another image of said plurality of images, and obtains a number of pixels whose, said gray level value has increased and a number of pixels, whose said gray level value has decreased (note Martinez, fig. 3C block 320, performs comparing functions based on changed information).

Regarding claims 7 and 19 Martinez and Nakamura discloses,

Wherein said plurality of images comprise at least two successive images, which have been successively picked up by, said image pick-up apparatus (note Martinez, col. 5 line 65- col. 6 line 4). Series of slices denote successive images.

Regarding claims 8 and 20 Martinez and Nakamura discloses,

Wherein a first image from said at least two successive images is a first frame and a second image from said at least two images is a second frame (note Martinez, col. 6 lines 5-10).

Regarding claims 12 and 23 Martinez and Nakamura discloses,

Wherein said image processing comprises a fingerprint image data processing (note Martinez, fig. 1).

Regarding claim 22 Martinez and Nakamura discloses,

Comparing said gray level value of each of one of said pixels of said first frame with a gray level value of each of one similarly positioned pixel of said second frame (note Martinez, fig. 3c block 320).

Allowable Subject Matter

3. Claims 3-6, 9-11, 15-18 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 3, 5, 15 and 17, further limiting of timing deciding means is not taught in the prior art.

Regarding claims 4, 6, 16 and 18, claims include timing deciding means including comparison of absolute value of difference.

Regarding claims 9 and 21, claims further limit the invention to include first memory, second memory, data processing, pixel number counting means and timing deciding means. Claims 10 and 11 are dependent on claim 9.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

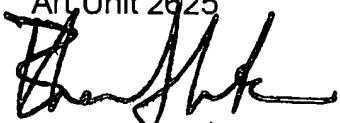
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (703) 308-9586. The examiner can normally be reached on M-F (8:30-6:00) Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (703) 308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory M. Desire
Examiner
Art Unit 2625



G.D.
August 17, 2004

BHAVESH M. MEHTA
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